

The Honorable JOHN C. COUGHENOUR

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

MYRIAM ZAYAS,

Plaintiff,

v.

LINDA NGUYEN ET AL.,

Defendants.

NO. 2:21-cv-00746-JCC

JAMAAL MAGEE AND JULIE
DECAMPS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF DEFENDANTS' MOTION TO
DISMISS

NOTE FOR MOTION: November 5,
2021

Defendants JAMAAL MAGEE, and JULIE DECAMP' ("Defendants") respectfully request that the Court take judicial notice of the following documents:

1. A true and correct copy of Amended Dependency Petition, dated March 16, 2020, and filed in King County Superior Court Juvenile Division, cause number 20-7-00666-0 KNT. (**Exhibit 1** to the Declaration of Brendan Lenihan dated August 26, 2020 ("Lenihan Decl."), filed concurrently herewith).
2. A true and correct copy of the Order to Take Child Into Custody and Place in Shelter Care, dated March 16, 2020, and filed in King County Superior Court Juvenile Division, cause number 20-7-00666-0 KNT. (**Exhibit 2** to the Lenihan Decl.).

3. A true and correct copy of the Shelter Care Hearing Order, dated March 17, 2020, and filed in King County Superior Court Juvenile Division, cause number 20-7-00666-0 KNT. (**Exhibit 3** to the Lenihan Decl.).
4. A true and correct copy of the Order Continuing Fact-Finding/Trial, dated July 6, 2020, and filed in King County Superior Court Juvenile Division, cause number 20-7-00666-0 KNT. (**Exhibit 4** to the Lenihan Decl.).
5. A true and correct copy of the Pretrial Conference Order, dated August 24, 2020, and filed in King County Superior Court Juvenile Division, cause number 20-7-00666-0 KNT. (**Exhibit 5** to the Lenihan Decl.).
6. A true and correct copy of the Order of Dependency as to mother, Myriam Zayas, dated October 8, 2020, and filed in King County Superior Court Juvenile Division, cause number 20-7-00666-0 KNT. (**Exhibit 6** to the Lenihan Decl.).
7. A true and correct copy of the Permanency Planning Order, dated May 7, 2021, and filed in King County Superior Court Juvenile Division, cause number 21-7-00531-9 SEA. (**Exhibit 7** to the Lenihan Decl.).
8. A true and correct copy of the Petition For Termination of Parent Child Relationship, dated August 11, 2021, and filed in King County Superior Court Juvenile Division, cause number 21-7-00531-9 SEA. (**Exhibit 8** to the Lenihan Decl.).
9. A true and correct copy of the Order Setting Termination of Parental Rights Case Schedule, dated August 12, 2021, and filed in King County Superior Court Juvenile Division, cause number 21-7-00531-9 SEA. (**Exhibit 9** to the Lenihan Decl.).
10. A true and correct copy of plaintiff Myriam Zayas' former lawsuit against defendant Jamaal Magee, dated July 17, 2020, and filed in US District Court for the Western District of Washington, cause number 2:20-cv-01001-RSM. (**Exhibit 10** to the Lenihan Decl.).

11. A true and correct copy of the Order of Dismissal with Prejudice against defendant Jamaal Magee, dated October 6, 2020, and filed in US District Court for the Western District of Washington, cause number 2:20-cv-010001-MAT. (**Exhibit 11** to the Lenihan Decl.).
12. A true and correct copy of Judgment in a Civil Case, dated October 6, 2020, and filed in US District Court for the Western District of Washington, cause number 2:20-cv-010001-MAT. (**Exhibit 12** to the Lenihan Decl.).
13. A true and correct copy of plaintiff Myriam Zayas' former lawsuit against defendant Julie DeCamp, dated June 10, 2020, and filed in US District Court for the Western District of Washington, cause number 2:20-cv-00650-TLF. (**Exhibit 13** to the Lenihan Decl.).
14. A true and correct copy of the Order of Dismissal with Prejudice against defendant Julie DeCamp, dated October 8, 2020, and filed in US District Court for the Western District of Washington, cause number 2:20-cv-00650-TLF. (**Exhibit 14** to the Lenihan Decl.).
15. A true and correct copy of the Order of Dismissal dated August 19, 2021, and filed in US District Court for the Western District of Washington, cause number 2:20-cv-007467-JCC. (**Exhibit 15** to the Lenihan Decl.).

ARGUMENT

It is well-established that “matters of public record, including court records in related or underlying cases which have a direct relation to the matters at issue, may be looked to when ruling on a 12(b)(6) motion to dismiss.” *In re Am. Continental Corp./ Lincoln Sav. & Loan Sec. Litig.*, 102 F.3d 1524, 1537 (9th Cir. 1996) (citations omitted), *rev'd on other grounds*, *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998); *see also MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986). To this end, a court may take judicial notice “of court filings and other matters of public record.” *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006); *see also Doe v. Mann*, 415 F.3d 1038, 1040 n.3 (9th Cir. 2005) (taking judicial notice of numerous records from state court proceeding, including a juvenile

1 dependency petition). Furthermore, a district court may take notice of proceedings in courts outside
 2 the federal judicial system if the proceedings have a direct relation to matters at issue. *Bennett v.*
 3 *Medtronic, Inc.*, 285 F.3d 801, 803 n. 2 (9th Cir. 2002); *Hogan v. Unum Life Ins. Co. of Am.*, 81 F.
 4 Supp. 3d 1016, 1020 (W.D. Wash. 2015).

5 Under Rule 201 of the Federal Rules of Evidence, the district court may notice an
 6 adjudicative fact if it is “not subject to reasonable dispute”; this test is satisfied if the fact is
 7 “generally known” or “can be accurately and readily determined from sources whose accuracy
 8 cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)-(2). The district court may “take judicial
 9 notice of matters of public record without converting a motion to dismiss into a motion for summary
 10 judgment.” *Lee v. City of Los Angeles*, 250 F.3d at 688.

11 Defendants request that the Court take judicial notice of Exhibits 1-9 described above
 12 from the King County Superior Court Juvenile Division under cause number 20-7-00666-0 KNT
 13 and 21-7-00531-9 SEA. These are court filings in the state court dependency and termination
 14 proceedings of Plaintiff’s child, ACZ, which is at the center of the allegations that Plaintiff raises
 15 in her federal lawsuit. These documents are readily verifiable and the proper subject of judicial
 16 notice.

17 Defendants also request that the Court take judicial notice of Exhibits 10-15. Exhibits 10
 18 and 13 are copies of Plaintiff’s former complaints against Jamaal Magee and Julie DeCamp in
 19 Federal District Court for the Western District of Washington. Exhibits 11, 12 and 13 are copies
 20 of the voluntary dismissals with prejudice of those same complaints. Exhibit 15 is a copy of an
 21 order from this very Court dismissing Plaintiff’s claims in a separate lawsuit on August 19, 2021.
 22 These documents are also readily verifiable and the proper subject of judicial notice.

23 24 CONCLUSION

25 Exhibits 1-15 above have a direct relation to the allegations in Plaintiff’s federal
 26 lawsuit, are matters of public record, are readily verifiable, and are not subject to reasonable

1 dispute. Accordingly, Defendants request that the Court take judicial notice of these documents
2 for purposes of analyzing Defendants' Motion to Dismiss.

3
4 DATED this 14th day of October, 2021.

5 ROBERT W. FERGUSON
6 Attorney General

7 /s/Brendan M. Lenihan
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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of October 2021, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Electronic Service to:
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Mailed Copy to:
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